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## Must I Report and Pay Use Tax?

Almost all California consumers know that when they buy tangible personal property in a retail store in California, the retailer may collect sales tax reimbursement on the taxable sale from the consumer and the retailer then reports and remits the tax to the State. However, when California consumers purchase tangible personal property online or through mail order from out-of-state retailers who do not collect tax on the purchase or when California consumers bring tangible personal property into California from out-of-state or from a foreign country, they may owe use tax on the purchase and use of the tangible personal property.

Here are some answers to frequently asked questions about the California use tax and a list of available resources from the State Board of Equalization (BOE) to assist you.

### **Q: What is the use tax? What is the use tax rate?**

A: The use tax is a companion tax to the sales tax, which is imposed on the retail purchaser of tangible personal property. In general, the use tax applies to out-of-state purchases of tangible personal property for use, storage, or other consumption in California where the seller was not required to pay California sales tax. The Legislature enacted the use tax in 1935 to ensure that California businesses are not subject to untaxed competition from out-of-state sellers.

The use tax rate is the same as the sales tax rate. The rate of use tax is determined by where the property will be used, stored, or consumed (e.g., where the purchaser is located), regardless of where the sale takes place. (See BOE Publication 71.)

### **Q: What kinds of purchases are subject to use tax?**

A: Use tax applies to any purchase of tangible personal property for use in California where the retailer is not required to pay California sales tax. Generally, this includes online, mail order and telephone order purchases from out-of-state retailers, purchases brought into California from other states, or purchases brought into California from a foreign country. Use tax also applies when tangible personal property that was purchased for resale is removed from inventory and used by the retailer. Additionally, use tax applies to purchases of vehicles, vessels, mobile homes, and aircraft from sellers who do not hold seller's permits. (See BOE Publication 110.)

### **Q: Do out-of-state retailers charge and collect use tax?**

A: Only out-of-state retailers that are "engaged in business" in California are required to collect use tax on taxable sales of tangible personal property to California consumers. Out-of-state retailers that are not "engaged in business" in California may voluntarily register to collect and pay use tax. However, the consumer owes the use tax regardless of whether an out-of-state retailer collects it or not. (Visit [www.boe.ca.gov](http://www.boe.ca.gov) to read about frequently asked questions in "Your Use Tax Responsibility.")

**Q: How do I as a consumer report and pay the use tax?**

A: If you are required to hold a BOE seller's permit, you must report the use tax due on your BOE sales and use tax return. If you are not required to hold a BOE seller's permit, you can report the use tax on your California income tax return or on the Consumer Use Tax return in Publication 79B, *California Use Tax*.

If you regularly make purchases subject to use tax but are not required to hold a BOE seller's permit, you should apply for a Consumer Use Tax Account (Form BOE-400-CSC) and report the tax on Consumer Use Tax returns.

If you travel abroad and declare tangible personal property with the United States Customs Bureau, the BOE may contact you in writing, asking you to pay use tax on these purchases. You may also report use tax on these purchases on your California income tax return or on a Consumer Use Tax return.

Use tax on vehicles or undocumented vessels is reported and paid at the time they are registered with the Department of Motor Vehicles. Use tax on mobile homes is reported and paid when they are registered with the Department of Housing and Community Development. To report and pay use tax on documented vessels or aircraft, you may use the forms available in BOE Publications 79 and 79A.

**Q: If I travel to another state, make a purchase in that state, pay sales tax on that purchase, and bring the purchased item into California, must I pay California use tax?**

A: Yes. However, if the out-of-state retailer charged you sales tax at a lower rate than the effective sales tax rate for the jurisdiction in which you reside in California, you can deduct the amount of the sales tax you paid in the other state from the amount of the California use tax and pay the difference. You should include the amount of the difference in your personal income tax return, in a BOE Sales and Use Tax return, or in a BOE Consumer Use Tax return.

If, however, the out-of-state seller charges you sales tax at a higher rate than the effective sales tax rate for the jurisdiction in which you reside in California, you do not owe California use tax on the purchase. You may not claim a refund of the excess amount you paid out-of-state.

**Q: What happens if I purchase an item in another state and have it shipped to a location outside California?**

A: There is no California use tax owed if the item is not used in California.

**Q: What happens if I purchase an item in another state and use it there before bringing it into California?**

A: If you use the item outside of California for 91 or more days after the purchase before bringing it into California, you do not have to pay use tax. Please note that special rules apply to out-of-state purchases of vehicles, vessels, and aircraft. (Visit [www.boe.ca.gov](http://www.boe.ca.gov) to read "FAQ-Use Tax on Purchases of Vehicles, Vessels, Aircraft.")

**Q: What happens if I first use the purchased item outside of California, bring the purchased item into California within 90 days, and then use it outside the state again?**

A: You do not owe use tax if you first use the item outside California, bring it into California within 90 days of purchase, and then use the item outside of California for more than 50% of the time during the next six months. Please note that special rules apply to out-of-state purchases of vehicles, vessels, and aircraft. (Visit [www.boe.ca.gov](http://www.boe.ca.gov) to read "FAQ-Use Tax on Purchases of Vehicles, Vessels, Aircraft.")

**Q: What happens if I report use tax on my income or sales tax return and later discover I made an error?**

A: Do not file an amended income tax return. Instead, complete a BOE use tax return for any additional amount due, or file Form BOE-101, *Claim for Refund or Credit*, for any overpayment. If the original use tax was paid on your California income tax form, be sure to mention this on the claim for refund.

**Q: Are there any exemptions from use tax?**

A: In general, any sale of tangible personal property that is exempt from the California sales tax is also exempt from the use tax. For example, sales of certain food items and prescription medicines are exempt from California sales tax and, therefore, would be exempt from the use tax as well.

An example of a specific exemption from use tax is the first \$400 of tangible personal property purchased in a foreign country by an individual that is hand-carried into California from the foreign country within any 30-day period.

**Available Resources**

- **BOE Website:** Visit [www.boe.ca.gov](http://www.boe.ca.gov) for the following information:
  - “Your Use Tax Responsibility” Frequently Asked Questions (<http://www.boe.ca.gov/sutax/faqusetax.htm>)
  - “FAQ – Use Tax on Purchases of Vehicles, Vessels, Aircraft” (<http://www.boe.ca.gov/sutax/faqtrans.htm>)
- **Publications and Forms:** The following BOE publications and forms also are available at [www.boe.ca.gov](http://www.boe.ca.gov):
  - Publication 61, *Sales and Use Taxes: Exemptions and Exclusions*
  - Publication 71, *California City and County Sales and Use Tax Rates*
  - Publication 79, *Documented Vessels and California Tax*
  - Publication 79-A, *Aircraft and California Tax*
  - Publication 79-B, *California Use Tax*
  - Publication 109, *Are Your Internet Sales Taxable?*
  - Publication 110, *California Use Tax Basics*
  - Publication 112, *Purchases from Out-of-State Vendors*
  - Form BOE-101, *Claim for Refund or Credit*
- **California Franchise Tax Board (FTB) Website:** Visit the FTB website for information about use tax reporting: <http://www.ftb.ca.gov/current/usetax.html>
- **For Further Information:** To obtain further information, please call the BOE Information Center at: 1-800-400-7115 or contact us via the Internet: [www.boe.ca.gov](http://www.boe.ca.gov).
- **Free Classes:** Some local BOE offices offer basic sales and use tax classes. Visit [www.boe.ca.gov](http://www.boe.ca.gov) for information about class schedules and locations nearest you.